



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 13, 1998

Mr. John R. Speed, P.E.
Executive Director
Texas Board of Professional Engineers
P.O. Drawer 18329
Austin, Texas 78760-8329

OR98-1658

Dear Mr. Speed:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116647.

The Texas Board of Professional Engineers (the "board") received a request for the following information:

- (1) Name and address of persons who are the focus of a formal or informal disciplinary hearing.
- (2) The date of the scheduled hearing;
- (3) The type of charge and range of punishment that person is subject to.

You have notified the requestor that the board currently has no pending formal disciplinary hearings. However, you indicate that as part of its investigation process, the board conducts informal hearings or conferences prior to filing formal disciplinary charges. You contend that information about these informal conferences or hearings is confidential pursuant to article 3271a of the Texas Engineering Practice Act (the "Act") and by board rule.

Section 22A of article 3271a provides as follows:

- (a) the Board shall keep an information file about each complaint filed with the Board relating to a license holder .
- (b) If a written complaint is filed with the board relating to a license holder, the Board, at least as frequently as quarterly, shall notify the parties to the

complaint of the status of the complaint until final disposition unless the notification would jeopardize an undercover investigation.

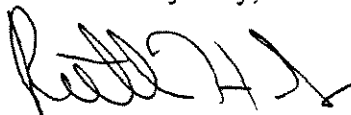
(c) The Board shall adopt rules that permit the Board to receive and investigate confidential complaints against license holders or any other person who may have violated this Act. The Board shall maintain the confidentiality of the complaint during the investigation of the complaint.

Section 131.171(d) of title 22 of the Texas Administrative Code provides that the "[t]he investigation phase of the complaint shall be considered complete for the purposes of maintaining confidentiality when formal charges have been filed."

Thus, the Act requires the board to maintain complaint information as confidential during the investigation stage. By rule, the board has determined that for purposes of maintaining the confidentiality of the complaint information, a complaint investigation is complete when formal charges are filed. Since you indicate that the informal conferences or hearings are held during the complaint investigation stage, we agree that the board must maintain as confidential the requested information. Releasing the requested information would identify individuals about whom complaints under the Act have been made, during the investigation phase when complaint information must be maintained as confidential.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 116647

cc: Mr. Kevin Blandford
KAB Process
5217 Kings Highway
Austin, Texas 78745